

REMARKS

Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested. Claims 1-11 are currently pending, and claims 1-8 remain rejected by the Examiner. Applicants hereby cancel claims 1-8 without acquiescence or prejudice to further prosecution of this subject matter in a related divisional, continuation, or continuation-in-part application.

Applicants acknowledge and thank the Examiner for indicating that the subject matter of claim 9 is allowable if rewritten in independent form to include all the limitations of the base claims and any intervening claims (*i.e.*, claims 1-8, canceled herewith). Accordingly, Applicants provide the above amendment to the Application solely to place the Application in condition for allowance by so amending claim 9, and by adding new independent claims 12-14 and new dependent claim 15, merely to incorporate into the claims submitted herewith the concededly allowable subject matter of claim 9 along with the limitations present in independent base claims 3, 5 and 7 (herein canceled), and in intervening claims 4, 6 and 8 (also canceled herein), from which claim 9 previously depended. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH (ENABLEMENT)

The PTO rejects claims 1-8 under 35 U.S.C. § 112, first paragraph, alleging that the specification does not enable a person skilled in the art to make and use the claimed invention. In particular, the Action asserts that the scope of the claims is not commensurate with the subject matter enabled by the disclosure. The Examiner concedes that the specification enables a skilled artisan to make and use a composition that comprises individual expression constructs that each recombinantly express Her2/neu, murine B7.2, or murine 4-1BB ligand. The Examiner asserts, however, that the specification is not enabling for making and using other compositions for eliciting or enhancing the titer of antibodies specific for any cell surface receptor antigen, wherein the composition comprises one or more recombinant expression constructs that express *any* cell surface receptor antigen plus two immune response altering molecules, which consist of *any* accessory cell agent and *any* T cell agent.

Applicants respectfully traverse these grounds for rejection and submit that as disclosed in the specification and recited in the instant claims, Applicants fully enabled the claimed invention at the time the instant application was filed. Applicants submit that in view of the Amendment submitted herewith, which includes the cancellation of claims 1-8 without acquiescence or prejudice, this rejection is rendered moot.

Applicants' invention is directed in pertinent part to a composition for eliciting or enhancing the titer of antibodies specific for a cell surface receptor antigen, comprising one or more recombinant expression constructs as recited that comprise a nucleic acid sequence encoding a cell surface receptor antigen, a first immune response altering molecule, and a second immune response altering molecule. The amended claims submitted herewith clearly and concisely point out that the cell surface receptor antigen is Her2/neu, the first immune response altering molecule is 4-1BB ligand, and the second immune response altering molecule is CD86/B7.2. As conceded by the PTO, the instant specification provides explicit guidance for a person skilled in the art to make and use readily and without undue experimentation the claimed compositions comprising recombinant expression constructs that express 4-1BB ligand, CD86/B7.2, and Her2/neu for eliciting or enhancing the titer of antibodies specific for Her2/neu (*see, e.g.,* Examples). Accordingly, Applicants respectfully submit that the present specification meets all the requirements of 35 U.S.C. § 112, first paragraph, and request that this rejection be withdrawn.

REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The PTO rejects claims 10 and 11 under 35 U.S.C. § 112, second paragraph, for indefiniteness. Specifically, the Examiner alleges that the recitation of SEQ ID NOs in parentheses does not clearly indicate whether the SEQ ID NOs are claim limitations or exemplary matter.

Applicants respectfully traverse these grounds for rejection and submit that the claims particularly point out that the sequences set forth in GenBank Accession Numbers recited in the claims may be found in the sequence listing as indicated by the parenthetical identification of the sequence identifying numbers. Nevertheless, solely to expedite prosecution without

acquiescing to this rejection, and to make explicit what is implicit, Applicants have amended claims 10 and 11 by removing the parentheticals. The instant claims therefore clearly and concisely describe the relationship between the GenBank Acc. Nos. and the sequence identifying numbers. Applicants therefore respectfully submit that the claims particularly point out and distinctly claim what Applicants regard as their invention as required under 35 U.S.C. § 112, second paragraph, and request that the rejection of the claims be withdrawn.

The Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All claims remaining in the application are now allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

Nathalie B. Scholler et al.

Seed Intellectual Property Law Group PLLC



Stephen J. Rosenman, Ph.D.

Registration No. 43,058

SJR:kw

Enclosures:

Postcard

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031